

## **Departmental Advisory Committee on the Commercial Operations of US Customs & Border Protection**

Nov. 25, 2008

Trade and Commercial Regulations Branch  
Regulations & Rulings  
Office of International Trade  
US Customs & Border Protection  
799 9<sup>th</sup> Street NW, 5<sup>th</sup> Floor  
Washington, DC 20001-4501

Re: RIN 1505-AB49  
Proposed Uniform Rules of Origin for Imported Merchandise

US Customs & Border Protection:

The Departmental Advisory Committee on the Commercial Operations of US Customs & Border Protection (COAC) submits the following comments in response to the Notice of Proposed Rulemaking, originally published in the Federal Register on July 25, 2008 (73 FR 43385), concerning proposed uniform rules of origin for imported merchandise. The comment period for this NPRM was extended to Dec. 1, 2008.

COAC commends US Customs & Border Protection (CBP) for extension of the comment period to provide the trade community additional time to consider the impact of the proposed rule on the country of origin of their goods in view of the publication of technical corrections to reconcile the Part 102 rules to the 2007 Harmonized Tariff System changes.

However, given the complexity of the analysis required and the burden placed on importers to obtain component level information from suppliers, COAC asserts that the 30 day extension is too abbreviated to accomplish CBP's objectives. Regardless of this obstacle, COAC believes the proposal should be immediately withdrawn for the following reasons:

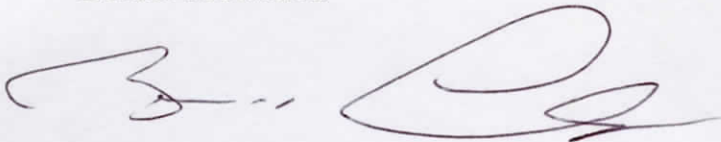
1. First and foremost, CBP's approach would require importers to classify foreign inputs used in the manufacture of a finished product and then apply tariff shift rules to determine the origin of that good. The ability to obtain this information from suppliers is questionable, if not impossible. Furthermore, this costly and time-consuming process will not result in more transparent and consistent country of origin determinations.
2. CBP once again oversteps their authority by attempting to reinterpret established and settled case precedent when legislative changes would be the required first step for amending these rules. The substantial transformation standard was developed from a series of federal court decisions issued over the last one hundred years. The standard was first applied by the U.S. Supreme Court in the case of *Anheuser-Busch Brewing Association v. United States*, 207 U.S. 556 (1908).
3. CBP also asserts that the proposed change also will aid an importer's exercise of reasonable care because the rules tend to be less complex. COAC believes CBP underestimates the devastating impact the proposal will have on importers, exporters and foreign suppliers, in an already depressed economy.

4. Lastly, CBP fails to recognize that such an effort would be contrary to the goals of the World Trade Organization to harmonize country of origin rules.

Due to these concerns, COAC believes the CBP proposal should be immediately withdrawn or at least reconsidered until it can be properly examined and Congressional hearings conducted.

Respectfully submitted,

**Departmental Advisory Committee on the Commercial Operations of US Customs & Border Protection**

A handwritten signature in dark ink, appearing to read 'B. Leeds', with a stylized flourish at the end.

Bruce H. Leeds, Esq.  
Trade Chair

CC: COAC members